

Draft Minutes of the
Delta Protection Commission
Thursday, September 22, 2005

1. Call to Order/Roll Call

Chairman McGowan called the meeting to order at 6:40 p.m.

Present: Chairman McGowan, Commissioners Curtis, Johnson, Kelly, Nottoli, Perez, Piepho, Reagan, Sanders, Scriven, Shaffer, van Loben Sels, and Wilson.

Absent: Vice-Chairman Ferguson, Commissioners Beckman, Cabaldon, Calone, Ornellas, and Simonsen.

Chairman McGowan welcomed Mary Piepho to the meeting. Commissioner Piepho serves as the Supervisor of the 3rd District of the Contra Costa County Board of Supervisors, and is a resident of the Delta.

2. Public Comments

Harry Moore, resident of Stockton, commented that the Delta is sinking. He said the Delta is below sea level and that the water tables have dropped. He also said the Delta has been sinking for many years and each year more water is leaving the Delta than is coming in. He said that at this rate, the lands would be eventually inundated with seawater, affecting 25 million people who will lose drinking water from the Delta. He said the Commission should work on the situation, starting with maintaining fresh water inflows, control of subsidence and silting.

3. Minutes of the August 25, 2005 Meeting

Commissioner Van Loben Sels moved approval of the minutes; Commissioner Curtis seconded. The minutes were approved by voice vote. Commissioners Piepho, Sanders, Johnson and Perez abstained.

4. CALFED Informational Presentation

Joe Grindstaff, Acting Director of CALFED, stated that he felt it was appropriate that he come to the DPC meeting in order to establish a relationship. He said that the roles of CALFED and the DPC cross paths. Mr. Grindstaff said he was not an authority on CALFED; however, he has dealt with complex problems as a manager of water and wastewater utilities in Southern California. He said through his previous work, he was appointed to serve on BDPAC.

Mr. Grindstaff reported that there have been challenges with the CALFED program, and while staff has been working through the challenges, not everything has gone perfectly. He said that in Southern California, flows from the Colorado River have been decreased by 650,000 acre feet a year and because of CALFED there has not been a dramatic shock to the economy. He said a major idea of CALFED was to reduce the amount of water taken from the Delta by developing alternate supplies. However, in doing so, the Colorado River supplies have been cut instead. He said that continuation of the program will make a significant difference on flows out of the Delta,

particularly to urban Southern California. Mr. Grindstaff said that CALFED has developed over half a million acre feet of water supply over the last five years and more than one million acre feet of groundwater storage. Mr. Grindstaff also said the CALFED has not lived up to commitments made in the Record of Decision (ROD) on the levees. He stated that it was assumed that there would be dramatic improvements in levees during the first seven years. He said that the plan was to spend one half billion dollars on Delta levees; however, to date \$106 million has been spent, and while CALFED has had problems like the pelagic fish decline, it has had successes with the record salmon runs this year. He said that talks will center on water quality issues in the near future.

Mr. Grindstaff reported that the Governor has assigned him to audit the CALFED program, along with the Little Hoover Commission (LHC) and the Department of Finance who is doing a performance audit and financial review. Additionally, the CALFED program has hired its own independent consultant, KPMG, to review business practices and advise CALFED as to what should be done differently to improve performance. Mr. Grindstaff said the Governor has asked that CALFED look at refocusing the program.

Mr. Grindstaff reported that an estimated \$3.8 billion total has been spent on the program to date. He stated that when the ROD was signed, it was assumed that CALFED would spend \$8-9 billion during the first seven years, and although CALFED has not come close to spending all the money, the program must prioritize and focus the remaining monies on those priorities in addition to obtaining commitments from user communities to pay. To do so the program will have to develop a realistic finance plan given the current fiscal situations in the State and Federal governments.

Mr. Grindstaff said he was concerned with the “vision” for the Delta for the next 100 years. He said that the real issues are not about water supply or ecosystem restoration, but rather, about land use, highways, and infrastructure. He reported that Marci Coglianesse and Tom Zuckerman will have a visioning conference to address the issue.

Chairman McGowan asked Mr. Grindstaff how he saw the Commission interacting with CALFED. Mr. Grindstaff responded he saw the Commission as a key player in the blue ribbon task force being proposed by ACWA; CALFED could staff that task force but not serve as the lead.

Commissioner Curtis asked how CALFED would go about making decisions for a unified vision for the Delta with the absence of a planning tool. Mr. Grindstaff responded that since CALFED has not completed a lot of the planning it has to do, it would have to take only “no regrets” actions.

Commissioner Wilson commented that with all the money CALFED spent, none of it went toward levee maintenance. He asked if all the money went toward ecosystem restoration. He also asked if there was a list of where the money has gone. Mr. Grindstaff responded that in addition to ecosystem restoration, money was spent on water use efficiency. He said he had provided Senator Patrick Johnston with a breakdown of the money spent, and would provide Commissioner Wilson the same.

Commissioner van Loben Sels asked how CALFED would cover the interests that are spelled out in the ROD. Mr. Grindstaff responded that there has been no clear criteria developed, but the issue would be discussed at the next CBDA meeting. He said that levee stability, water quality, ecosystem restoration and water supply are the four objectives that must be met. He also said that CALFED has not done a good job of “adaptive management” and said he would like to come up with criteria as to what shall be done, by November, when staff makes a recommendation to BDPAC and CBDA.

Commissioner Wilson asked if the four objectives were equal in terms of dollar amounts spent. Mr. Grindstaff responded that dollar allocations have not been equal among the four objectives; the bonds that have financed the program are specific in their language on how the funds are to be spent.

Commissioner Piepho stated that saltwater intrusion is the biggest challenge with the Delta. She said that the issues with the Delta are delicate and have been politicized and will continue to be until there is strong management to fight the powers that be. She said that in order to make strides there needs to be an autonomous leadership role in the State that is consistent and not subject to politics, and until this is done, there will be many learning curves and imbalances until the subject is addressed.

5. South Delta Improvements Program

Kathy Kelly reported that the South Delta Improvements Program (SDIP) Draft Environmental Impacts Statement/Environmental Impacts Report (DEIS/DEIR) should be available by mid-October. Commissioner Kelly said the program is incorporated in the CALFED ROD, as part of the conveyance portion of CALFED. She stated that CALFED is seeking a through Delta approach to resolving the water supply imbalance within the Delta. She noted that the CALFED program is broken up into stages, with the first seven-year stage ending in late 2007. The SDIP is a program that been pursued by DWR for quite a while and in the ROD it is described as an interim step that will increase the permitted export limit from 6,680 to 8,500 cfs. Commissioner Kelly said that some of the conveyance programs in CALFED will be evaluated for their feasibility—including the Delta facilities, feasibility of bringing Sacramento River water to the central Delta for water quality purposes, and a study of the cross-channel gate operation. She said that it was found that screening the diversion point into the State Water Project would cost around \$2 billion dollars and for DWR to increase the export limit to 10,300 cfs as proposed in the ROD, DWR would have to look at screening the diversion facility. CALFED has opted to look at ways to reduce the fish take at the pump other than screening, so it has postponed seeking that level of export increase. DWR has revamped the SDIP to include three components to provide adequate water levels for local farmers in the South Delta; protect fish from being diverted into the South Delta; and increase the SWP export limit to 8,500 cfs. The project has been split into two decision stages: First, dealing with the four operable gates in South Delta channels to provide adequate water levels and quality; and, second, a process to increase the export limit for the SWP. She said that increases would not take place until the permanent gates were in place, and if approved in 2006, they will be constructed and operable in 2009. The anticipated date for release of the DEIR/DEIS is mid October 2005.

Commissioner Reagan asked if DWR would address the increase of salinity in the Suisun Bay. Commissioner Kelly responded yes, the water quality standards, Delta outflow and impacts of the project have been analyzed and it was found that there is no significant impact on Contra Costa County's water quality.

6. Authorize Chairman of the Commission to Execute Letter from the Commission to the Bay Delta Authority Expressing the Value of the Bay Delta Public Advisory Committee

Linda Fiack reported that Commission staff drafted a letter in response to discussions at the BDPAC and ACT meetings where there has been clarification from the Bureau of Reclamation that BDPAC is an advisory committee to the Secretary of the Interior and not the California Bay Delta Authority. She said the letter would emphasize that the clarification should not interfere with the importance and value of BDPAC as a forum for stakeholder and public input to the Authority.

Commission Sanders asked that any future letters for the Commission's approval be circulated ahead of time.

It was moved by Commissioner Peipho to send a letter from the Commission to the Bay Delta Authority expressing the value of the Bay Delta Public Advisory Committee. Commissioner van Loben Sels seconded the motion. The motion was approved unanimously by voice vote.

7. Authorize Chairman of the Commission to Execute Letter from the Commission to the Little Hoover Commission Noting the Role of the Commission in the Delta, Pursuant to the Delta Protection Act

Linda Fiack reported that Commission staff drafted a letter in response to the Little Hoover Commission (LHC) hearings on the CALFED program. The letter was prompted because of conversations with LHC staff where it became apparent that LHC staff was not aware of the Commission, its role and function in the Delta, and its Resource Management Plan.

Commissioner Kelly asked if the Strategic Support Team referenced in the letter was the same one that was discussed at the August meeting and requested that it be clarified that some of the Commission entities have committed to staff the team. Ms. Fiack responded yes and that the change would be incorporated into the motion for approval.

Commissioner Perez asked that the Department of Parks and Recreation be included in the letter.

Commissioner Sanders stated that it was his understanding that the Draft Recreation Master Strategy Plan referenced in the letter would remain an "in-house document", and be deemed a working draft. Ms. Fiack responded that the document is a working draft and she was working with the Dangermond Group to incorporate the Commission's changes that were discussed at a prior meeting. She further stated that she only referenced the Recreation Plan in order to highlight the areas where the Commission has involvement in the Delta, but CALFED does not. She said she would note in the letter that the document is a working draft.

It was moved by Commissioner Piepho to execute a letter from the Commission to the Little Hoover Commission noting the role of the Commission in the Delta pursuant to the Delta Protection Act. Commissioner Nottoli seconded the motion. The motion was approved unanimously by voice vote with amendments.

8. Approve Participation in Lower Yolo Bypass Stakeholder Process as a Co-Sponsor with the Yolo Basin Foundation

Linda Fiack reported that the Center for Collaborative Policy (CCP) recently completed a feasibility assessment of initiating a group to consider solutions for problems in the Lower Yolo Bypass. She said that the Commission was to be a co-sponsor in the stakeholder process recommended in the assessment, however, the CCP cautioned in its document that the Commission might not be able to carry out its duties due to lack of resources and a change in its Executive Director. She said that Chairman McGowan wrote a letter to the CCP voicing his concerns over that language, and the CCP has since printed a retraction. She requested Commission approval of a letter would recommend the Commission serve as a co-sponsor with the Yolo Basin Foundation.

Commissioner Wilson asked if there would be a cost to the Commission for its involvement. Ms. Fiack said there would be no cost, but the letter would ensure that the Commission is involved in the process.

It was moved by Commissioner Wilson that the Commission send a letter approving participation in the Lower Yolo Bypass stakeholder process as a co-sponsor with the Yolo Basin Foundation. Commissioner Scriven seconded the motion. The motion was approved unanimously by voice vote.

9. Approve Inclusion of \$50,000 Limit in Delegation of Authority to Executive Director

Linda Fiack reported that currently, there is no maximum on the dollar amount that the Executive Director could spend on contracts on behalf of the Commission. Therefore, in keeping with the State of California, Department of General Services' policies, she asked that the Commission approve a delegation maximum of \$50,000.

Chairman McGowan asked that significant contracts be brought before the Commission for approval.

Commissioner Sanders asked that the wording in the title Recommended Commission Action (bullet #3) be changed to reflect the name of the Commission's Budget Officer.

It was moved by Commissioner Wilson to approve the inclusion of a \$50,000 limit in delegation of authority to the Executive Director. Commissioner Kelly seconded the motion. The motion was approved unanimously by voice vote, with amendments.

10. Authorize Executive Director to Enter into Agreements and Execute Documents Related to Facilitation of Strategic Planning Process

Linda Fiack reported that the Commission approved a strategic planning process to further review the Commission, its mission and vision. She said she has been working with the Non-Profit Resources Center who will provide a facilitator and contribute to half of the costs. Ms. Fiack said she is going through the formal State process and once that is finished, she will be

entering into an agreement NPRC for no more than \$10,000. Components of the planning process include Commissioner interviews, establishment of a repository for documents, a visioning session, and development of a business plan.

Chairman McGowan asked for two or three volunteers to serve on an ad hoc committee for the process.

Commissioner van Loben Sels asked if the testimony from the hearing held by Senator Machado in November 2003 would be part of the record. Ms. Fiack said yes.

It was moved by Commission Reagan to authorize the Executive Director to enter into agreements and execute documents related to facilitation of strategic planning. Commissioner Piepho seconded. The motion was approved unanimously by voice vote.

11. Executive Directors Report

Linda Fiack reported that the first year of the legislative session had ended, and gave an update on the following bills:

AB 797 (Wolk): No action taken on the bill - as there were changes being made to the language regarding LAFCO.

SB 153 – (Chesbro): The bill was put on hold; however it may be introduced as an emergency bill in January.

AB 716 (Canciamilla): The bill was put on the Governors desk on September 1, 2005; to date it has not been signed. .

AB 1664 (Laird): No action to date.

Ms. Fiack reported that Senator Tom Torlakson's office was working on a Delta Trail and is introducing a resolution. She said she provided additional language to the resolution that would acknowledge the potential for landowner impacts. She said she met with the Senator to give input on the resolution and invite him to give a briefing to the Commission.

The Reclamation Board held meetings on September 15-16. The agenda included an item that would give the Reclamation Board authority to review projects in the flood zone.

Sacramento County has committed funding toward a proposed Delta Visitors Center. Commissioner Nottoli said that Sacramento County set aside \$15,000 and will work with the Delta Chambers and the Delta Alliance for economic development purposes. Commissioner Johnson added that he was quite impressed with the design of the visitor center's logo.

Ms. Fiack reported that she went on a Delta boat tour given by Jeff Hart of Hartland Nurseries. Also in attendance was Commissioner Johnson.

The Sacramento River Watershed conference will take place October 27-28 in Red Bluff.

The Department of Conservation *2000-2002 California Farmland Conversion Report* has been released.

The Yolo County Proposition 50 Integrated Regional Management Plan grant application was awarded funding. The County's application was one of 28 successful applications. The County has incorporated Delta issues such as invasives, water quality, and abandoned vessels into the application. Ms. Fiack asked that other entities that have submitted Proposition 50 grant applications incorporate Delta issues into their plans.

Commission staff submitted a survival BCP for \$30,000. If approved, the money will come from the Harbors and Watercraft fund from the Department of Boating and Waterways.

Sheila Singleton reported that Commission staff participated in the Coastal Cleanup Day on September 17, 2005. Staff cleaned the Clarksburg public fishing access site and picked up 350 pounds of trash and assorted objects. She thanked Lew Maciel and Jeff Hart of Hartland Nurseries for volunteering their time.

Ms. Singleton also reported that Lori Clamurro, Environmental Scientist to the Commission, delivered a 7lb 12oz baby girl, Elena Lynn, on September 12, 2005.

12. Attorney General's Report

Dan Siegel reported that the California Farm Bureau has three lawsuits against CALFED. In the first case, in which the Executive Director of the Delta Protection Commission is a defendant, both sides filed motions for summary judgments; the court was scheduled to hear the case, but the hearing was postponed with no new trial date. The second case was dismissed over a year ago by the trial court, however the Farm Bureau appealed to the Third District Court of Appeal, who heard oral arguments on August 30, 2005; the case is still pending. The third case, which was filed a year ago, challenging the Environmental Water Account, has been settled and the lawsuit was dismissed without prejudice.

13. Commissioner Comments/Announcements

There were no comments or announcements.

14. Adjourn

Chairman McGowan adjourned the meeting at 8:30 in the memory of Charles Frederick (Grandpa) McDowell